1

App. F. IX—4

CLASS B

1960
(Forests)

File No. AFD368FAD

Serial Nos.

Previous Reference
AFD 40 MFP57.

Later References.
AFD175FGL67

Agriculture & Forest Department.

THE MYSORE GOVERNMENT SECRETARIAT

Serial Nos

Part B for

SUBJECT

Petn. of Sri M.S. Kadambalithaya re: return of Security deposit

[illegible] GPB—2,00,000—1-6-61

FOR/NOT FOR NOTE BOOK
UNDER SECRETARY

3-3-60

Under Secretary to Govt.

2

AFD 368 FAD 60

Office of the Minister for Forests and Transport.

NOTE

No S 87/60-61 Bangalore, dated Nov. 3. 1960.

AGRICULTURE & FOREST SECRETARY No 303 11 JAN 1961 GOVERNMENT OF MYSORE

2442/F

1) The Minister desires that the Government Order No. AFD 40 MFP 57 dated 3-8-1960 and the relevant file may be submitted to him immediately. The same may therefore be sent to this office immediately.

(K.N. Bengeri)
PRIVATE SECRETARY.

DEPUTY SECRETARY TO GOVT. NO. 12052/5 3 - NOV 1960 AGRICULTURE & FOREST DEPTT.

Deputy Secretary, A & F.D.)

2) Please put up pps today
USF)

3/11

MYSORE GOVERNMENT SECRETARIAT NO. 10312 3 FOREST BRANCH

OFFICE OF THE MINISTER FOR FORESTS & TRANSPORT No A-1031 4 NOV 1960

3) Subd with the connected file No AFD 40 MFP 57. Kind reference is invited to G.O. dt 3-8-60 waiving the penalty of Rs 3000/- levied by the GOI and collection of the value of illicitly cut trees viz Rs 3835/- which amount has been calculated taking into account the seigniorage value.

P.S. to M (7)

3/11/60

Flag 'Z'

DEPUTY SECRETARY TO GOVT. NO..... 3 - NOV 1960 AGRICULTURE & FOREST DEPTT.

This was submitted along with file No AFD 31 FGN

Note.—Cover Sheet

OFFICE OF THE MINISTER FOR FORESTS No P-1642 10 JAN 1961

18/1/61

Submit

No action was taken for his benefit.

2

4 FD 368 FAD 60

Office of the Minister for Forests and Transport.

NOTE

No S 87/60-61

Bangalore, dated Nov. 3, 1960.

AGRICULTURE & FOREST SECRETARY No 303 11 JAN 1961 GOVERNMENT OF MYSORE

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(K.N. Bengeri)
PRIVATE SECRETARY.

DEPUTY SECRETARY TO GOVT. NO. 1282/F 3 - NOV 1960 AGRICULTURE & FOREST DEPTT.

Deputy Secretary, A & F.D.)

2) Please put up pps today
USF)

3/11

MYSORE GOVERNMENT SECRETARIAT NO 10312 3 FOREST BRANCH

THE MINISTER FOR FORESTS & TRANSPORT No A-1031 4 NOV 1960 OFFICE

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P.S. to M (7)

3/XI 3/11/60 US7

Play 7

DEPUTY SECRETARY TO GOVT. NO..... 3 - NOV 1960 AGRICULTURE & FOREST DEPTT.

This was submitted along with file No AFD 31 FGN

THE MINISTER FOR FORESTS No P-1442 10 JAN 1961 OFFICE

Note—Cover Sheet

18/11 Sept

AFD 3/11/60

Do. dispatch W.O. after this work.

3.

File No. of 196 .

Mysore Government Secretariat

Serial No.

DEPUTY SECRETARY TO GOVT. NO 2191/F. 21 NOV 1960 AGRICULTURE & FOREST DEPTT.

5) subd with the connected file no AFD 40 MFP 57.

PM 21/11/60.

DS)

21/11/60

WD 07273—GPB—PZS—8,00,000—1960

Sub: Appeal petition of Sri M.S. Kadambalithaya, Land Holder, Volegeri, Bellur

Mysore Government Secretariat | File No. of 196 | [App. F. III 2]

Serial No.

6) D. No RFD 11079/60 P1 to 5/CF
D. No RFD 11098/60 P7 to 10/CF

For perusal of two petitions from Sri M.S. Kadambalithaya. orders of Secy RR&F on page 1/CF
"please put up a detailed note"

7) orders of M(F) on page 7/CF
"I see to examine it thoroughly, very carefully (within a week) and put up all relevants p/os"

8) The petitioner in his petition d 22-11-60 states that he has been asked to pay the total amount of Rs 5438-26 NP, details of which are noted in the petition, ~~by the DFO~~ ~~vide page 1/CF~~ ~~S.K.Dt.~~

9) In respect of Rs 3855/- regarding value of trees illicitly cut, while giving reasons in the petition, he prays that the valuation may at least be fixed to a limit of Rs 2000/- as originally estimated by the DFO, S.K.Dt.

10) In respect of Sales tax i.e. Rs 115-65 NP, ~~the petitioner~~ prays that it may be waived.

11) In respect of Security deposit of Rs 1075-00, he requests that it may be cancelled.

12) Regarding payment of rent and cess due to the dept

Note.—Continue Sheet

the petitioner states that he had already paid the current rent and therefore he is not liable to make payment again. As regards cess, he states that the collection of cess may be deferred. He also prays for stay order.

13) Please see the previous collection No AFD 40 MFP 57 and kind reference is invited to GO 2 3 & 6 (Flag 'Z') waiving the penalty of Rs 3000/- levied by the Govt of Madras and collection of the value of illicitly cut trees viz Rs 3855/- which amount has been calculated taking into account the seigniorage.

14) In this connection kind reference is invited to the DFO's letter d 11-12-57 (P 25/CF) He states that about Rs 2100/- or Rs 2000/- would be reasonable.

15) Regarding security deposit of Rs 1075/- please see the orders of collection leading to Madras on the last page in G.O. No 1043 d 12-4-55. As regards other points raised in the petition, they appear to be fresh points on which remarks of the CCF would seem to be necessary. Pending disposal of the petition, it is for order stay order may be granted as

Mysore Government Secretariat | File No. 368 FAD 60 of 196 | [App. F. III 2

Serial No.

prayed for by the applicant.

16) For orders with refce to paras 6 & 7 nf

PRO 23/11/60.

17) A detailed report from the C.C.F. with regard to the several requests made by the petitioner seems to be necessary to take a decision and in the meantime it is for orders whether the proceedings for recovery of the amount may be stayed as prayed for by the applicant.

18) For provisional orders. Ref para 10/6

DEPUTY SECRETARY TO GOVT. NO 2324/F 26 NOV 1960 AGRICULTURE & FOREST DEPTT.

18

19) A detailed report may be called for from the CCF on the several points urged in the petition

22/4

20) ups. urgently 25/4

Dy

apts issue plates 26/11
& CCF. Pl. put up.

28/4

21) Dft letter to the CCF as put up for appl.

PRO 29/11/60.

22) Issue 30/11/60

Issued on 30/11/60.

30/11

23) Resubd after issue with refce to para 22 nf.

PRO 1/12/60

24) 1/12/60

DEPUTY SECRETARY TO GOVT. NO 2442/F 2 - DEC 1960 AGRICULTURE & FOREST DEPTT.

Note.—[illegible] Sheet

Mysore Government Secretariat

File No. 368 FAD

Serial No. 2442/F.

25) Thanks. Put back with copy report

KG 13/12 — 13/12

26). Fair reminder to the CCF is put up for appl.

AM 15/12

issue 15/12

Issued on 16/12/60

16/12

27) Fair reminder is put up for approval. 28) issue 20/1/61

AM 19/1/61

Issued on 21 JAN 1961

21/1

Sus AM 21/12

29) D.No OFD 2677/61 P12 to 16/CF

Please see the request of the petitioner at page 1/CF. His request is detailed in paras 8 to 15 of. Kind reference is invited to the CCF's report at pages 12 to 16/CF. He agrees with the remarks made by the DFO, SK and the CF, Mercara.

30) With regard to the valuation of timber illicitly felled, the DFO has after careful consideration, reported that

Sus AM 10/2

Serial No.

the levy of value of Rs 2000/- would be reasonable instead of Rs 3835/-. Hence FD may kindly see for concurrence vide remarks in para 78 of the linked file.

31) Regarding security deposit of Rs 1075/- the CF, Mercara has stated that it cannot be waived. This view may be accepted.

32) As regards Rs 115-63 being the sales tax at 3%, the CF says that it has to be recovered by sale. If however the recommendation to recover the timber value at Rs 2000/- is accepted, then it will be reduced to Rs 80/- only at 8%. It is further stated that the arrears for 1952-53 cannot be waived as the department is legally entitled to recover the amount.

33) The CF, ~~Belgaum~~ Mercara has also stated that the education cess at the 0-3/4 % is recoverable as per standing orders and therefore this cannot be waived.

34) FD may see no for

Note.—Contn. Sheet

File No. 36 & PHD/60 of 196 .

Mysore Government Secretariat

Serial No.

Con Currence in the cap's proposal

FINANCE DEPARTMENT No. 1250/W2 11 APR 1961 GOVERNMENT OF MYSORE

F.D) 2/4/61

U.O.No.1250/W2.

Finance Department
Works and Schemes 2

From the G.O. dated 3-8-60 of this Govt. it is seen that the value of the illicitly cut trees viz., Rs. 3,855/- is based on the seigniorage value. Hence, there seems to be no case for reducing this value as proposed. More over it may not be proper to review a case which was decided by the other State Govt. as stated above. Besides a concession has already been shown to him by not enforcing the recovery of penalty. This has evidently ~~gm~~ goaded him to ask for more. A & F.Dept. is advised to reject the petition.

Under Secretary,
Finance Department.

A & F.Dept.)

Off G.O. put up for appl. Ref para 33 up

Only a letter rejecting the petition is enough. Pl draft.

9-7-61

Serial No.

36) D.No AFD 5589/61 P22 to 24/cf
Please peruse the appeal petition of M.S. Kadambalithaya at page 22/cf. Orders of M(F) on page 22/cf.
" The connected records may be put up "

37) Subd with the connected file. Dft letter to the party is put up for appl as ordered in para 35 up

AM
13/7/61
2/4/7

38) As instructed by us, papers bearing D.No AFD 6092 have been compiled in the main file

AM
19/7
20/7

P28/cf

39. Shri. Kadambalithaya Land Holder in Cannanore District has represented against the order of the Forest Dept requiring him to make the payments as at 'A' on page 1/c. Except in respect of item (1) the Dept does not recommend any of the requests of the petitioner. Govt is not agreeable to reduce the value of the illicitly cut trees viz Rs 3,855/- For the reasons mentioned by Govt in para 33/N. the request of the petitioner

Note.—Contn. Sheet

File No. 368 ~~FAD~~ of 1960.

Mysore Government Secretariat

Serial No.

may be rejected.

40. The paper may be submitted to M(F) with reference to his minute of 6.6.1961 (p 22/o) before the petitioner is informed as proposed.

(41) [signature] 24-7-61 US(Fest.)

~~D. S. Sy. Secy. Agri & Forest Deptt~~ S. N. MURTHY, 25.7.61

(42) M(Forests) 30/7

H. S. RUDRAPPA,
Minister for Forests.

DEPUTY SECRETARY 2065/F 25 JUL 1961 AGRICULTURE & FOREST DEPTT.

OFFICE OF THE MINISTER FOR FORESTS No 835 31 JUL 1961

Issued on 3 AUG 1961

43) pl. See para 36 n/f onwards. It can be seen that the request of the petitioner was rejected.

O. No. 8037 of 31-8-61 – petition from Sri. M. S. Kadambalithaya to the Hon'ble M(F).

Minutes of the Hon'ble M(F) – 44.

"Secy. forests – the connected records may be put up & the case may be posted 5th of next month since the party want the case to be heard through his advocate.

Id/ 22/8

Mysore Government Secretariat

File No. 368/AD of 1960.

[App. F. III 2

Serial No.

45. Before the file is transferred to M(f), a letter to the Advocate is put up for approval.

4/9/61

46. He is for consideration. Meanwhile the hearing may be posted for 5.9.61 as ordered by the Min. for some other date.

47. I understand that the Party is aware of this engagement. In view of this it is not necessary to issue the endorsement. The papers are now submitted to M (Forests) for his use at the time of the discussion.

4-9-61

M. (Forests)

48) The advocate of the petitioner wanted time. Hence this is adjourned. A fresh date may be given during next month.

12/9

(49) 8/9/61

H. S. RUDRAPPA,
Minister for Forests.

(50)

51) w.r.r. para 48 n/f, this may be marked to P.S. to M(f) to suggest a suitable date and time for discussion.

18/9 3/9/61

P.S. to M (Forests)

20-9-61

OFFICE OF THE MINISTER FOR FORESTS
No. 835
15 SEP 1961

OFFICE OF THE FOREST SECRETARY
6733
15 SEP 1961
GOVERNMENT OF MYSORE

Note.—Contn. Sheet

File No. of 195 .

Mysore Government Secretariat

Serial No. 52

OFFICE OF THE MINISTER FOR FORESTS No. 835 1 - NOV 1961

It is urged that in para 5 of his revision petition at page 3 of that levying of fresh security deposit may be reconsidered. But during arguements the Advocate for the petitioner urged when lease was restored by Madras Govt. the security deposit was also restored and hence no fresh security need be given. This requires examination. The opinion of the Law dept. may be obtained.

1871 LAW DEPARTMENT

Law secy.

1/11/61

H. S. RUDRAPPA,
Minister for Forests.

53. I regret I could not discuss this case with the Law Secretary though I promised that I would discuss the same with him on the 6th Nov 1961.

Briefly put the facts of the case are :-

The Petitioner was granted some lands in Puttur Taluka for Areca Plantations subject to conditions specified in Madras Govt Order ⊗ No. N. Dis. 628/51. C2 dated 1.1.1952. Under the favour vested him under condition 24 of the GO of 1.1.1952 as there were illicit fellings immediately outside the leased area, the Madras C.C.F in his letter ¶ No. 14981/53. E2 dated 15.9.1953 cancelled the lease. In his letter ⌐ of 2.12.54 he also reported that the security deposit of Rs 1075 taken under

⊗ Slip B in the Paper below. AFD 40 MFP 57.

¶ Slip A Ibid.

⌐ Slip C. Ibid.

Serial No.

condition 6 of the order of 1.1.1952 (Slip B) was also ordered to be confiscated to Govt.

54. On the Petitioner representing to the Govt of Madras, the C.C.F. Madras was directed by the Govt of Madras in Order (*) No. MS. 1043 dated 12.4.55 that the lease be restored to the petitioner after collecting from him the value of 116 trees found to have been felled within the limit of one furlong from the boundary of the area taken on lease by him together with a penalty of Rs 3000/- only. The Petitioner was again informed on 3.X.55 that it was left to the petitioner to accept the terms laid down by Govt and have the lease restored to him or to reject the offer of Govt — in which case the order of the Madras C.C.F. cancelling the lease would stand. These orders do not say if the security deposit is restored. They also do not say that the C.C.F. orders are cancelled.

55. After reorganisation of the States, the Petitioner again represented the case — now to the Govt of Mysore — that the value of the trees be reduced and that the penalty of Rs 3000/- be waived. The State Govt considered the petitioner's request and in the light of the opinion of the Law Dept dated 17.2.1960 ordered on 3.8.60 that the penalty levied by the Govt of Madras be waived but the value of the trees fixed by the Govt of Madras of Rs 3855/- be recovered.

56. The Petitioner has again approached Govt with a request amongst others that a fresh security deposit of Rs 1075/- may not be taken from him and the order of the D.F.O. in this behalf be cancelled on the ground that once the grant is restored the security deposit confiscated also gets restored and that the orders of 1955 (Slips C D and G) do not specifically confiscate the

(*) Slip D in File No. AFD 40 MIP 57 placed below

§ Slip G Ibid.

¶ Slip F Ibid

Note.—Contn. Sheet

Serial No.

security deposit once made. The opinion of the Law Dept is solicited on the point whether this view of the Petitioner is correct and should be accepted.

Attention is invited in this connection to the opinion⊗ of the Law Department of the Madras Govt which inter alia reads as " As for the forfeiture of deposit, the grantee is bound to pay the value of the illicity cut trees. If he fails to do so, it is a breach of the conditions of the grant for which it may be forfeited under clause 6." 57. ⊗ Slip "E" in File No MFD 40. MFPS 57. Flag below.

We have held that the value of the trees should be Rs 3853. If the Petitioner pays this amount, according to the above opinion of the Madras Law Department the petitioner will be eligible for the restoration of his security deposit. If this position is correct the order of the Madras Govt forfeiting the security deposit would be bad in law since such order could be passed only if there is a breach of the conditions of the grant and not otherwise. Cancellation of the lease does not automatically result in confiscation of the security deposit in the absence of any specific condition to that effect. Conditions 6 and 24 of the conditions of the Govt of 1.1.1952 (Slip B) are relevant in the present case. The contention of the Petitioner therefore seems to be correct provided he pays the full value of the illicity felled trees. The Law Department may in the circumstances advise whether the position stated above is correct or whether

Mysore Government Secretariat | File No. AFD 368 FAD 60 ~~of 196~~ | [App. F. III 2

Serial No.

with the restoration of the grant the petitioner is required to make a fresh security deposit for the fulfilment of the conditions of the grant as required under condition 6 of the order of the Madras Govt of 1-1-1952 (Slip B in file No. AFD 40 MFP 57 (Health))

Sec. Law

3.12.61

Seen KG 5/12

58 Discussed with Shri Prabhu, under-Secretary. The file does not contain the order of forfeiture of deposit passed by the C.C.F. It may be obtained as it would throw considerable light on the question at issue viz whether with the re-grant of the lease, the security-deposit stands restored automatically as contended by the applicant.

TKT
5.12.61

~~A & F~~).

59 The CCF's letter referred to above may be obtained - urgently

KG 5/12/61

Go & put up for appl. (P29CF)

RSR 5/12 61) Issue

Go

Issued on 6 DEC 1961 5.12.61

Go & put up 5/12/61

6/12

Note.—Contn. Sheet

Mysore Government Secretariat

File No. Afd 368 FAD 60 of 196

Serial No.

Recd St No — 31 — CCF

Bg - 51 - 441/57 & 16.12.61.

The order of CCF Madras forfeiting the deposit of Sri M.S. Kadambali Thaya is at P 35 CF. May be referred to L.D.

Refer Para 58 of

36/L Rev. III

62

63

64

63

9 - JAN 1962

AGRICULTURE & FOREST DEPTT.

29/12 RSR 28/12

9/1.62.

7/1/62

L.D.

Sn 3

9 - JAN 1962

Registrar-I
Law Department

LAW DEPARTMENT.

It is clear from the order of the Government of Madras (Flag 'M') (Page 61 of File No. AFD 40 MFP 57) that the sum of Rs.1075/= deposited with the Government as a security deposit and forfeited by the order dated 12th April, 1955 was ordered to be refunded to Shri M. Shankarnarayan. So, the question of taking a fresh deposit would arise only if the order of refund has been given effect to. If the old security deposit remains with the Government then the question of calling for a fresh deposit does not arise.

65

A

ADDITIONAL SECRETARY TO GOVT.
No. 53
11 JAN 1962
LAW DEPARTMENT.

(T.K.Tukol)
Law Secretary.
(11-1-1962)

Secy. A & F. Deptt.)

Pl get 'A' confirmed from the CCF

66

12/62

Put up for appl.

67

RSR 20/1

68

Issued on 25 JAN 1962

Mysore Government Secretariat

AFD 368-AD60

File No. of 196 . [App. F. III 2.

Serial No.

69 Dft reminder Put up for abb
Pesh 27/2/62.

70 Issues
27/3/62

Issued on 27 MAR 1962
24.3.

Recd SL NO. 39- CCF
B4-51-441/57 dt 6.6.62

71 It is reported by CCF that the Security deposit has not been refunded to Sri M.S. Kadambalimaya.

72 Sri MSK has appealed to Govt for grant of following concessions:

73 ~~Govt~~ Sri MSK is a lessee of 53 acres for areca cultivation in 1949. He brought 48 acres under cultivation by 1957. He was given another 43 acres in 3 bits in 1952. The trees standing on the land given to him and valued. The value of the trees amounting to Rs 1505 were received by him. It was alleged that while cutting & removing the trees on his land some more trees which did not belonged to him were cut & removed. The cost of this illicit cut timber was valued at Rs 38 55/-. The Govt of Madras ordered on 3.10.55 that the land consisting of 43 acres may be restored to him provided he pays the value of the timber illicitly cut & removed & a Penalty of Rs 3000/- in all. His further appeal to Govt of Madras also rejected. It has however ordered on 3.10.55 that the Security deposit may be

Note.—(Continue on Sheet)

File No. AF) 368 FA) 60 of 196.

Mysore Government Secretariat

refunded to the Petitioner. Sri K. came in appeal again before the Govt of Mysore on 28.5.59 for revision of the erstwhile Govt of Madras order. Govt considering all aspects the case ordered on 3.8.60 waiving the Penalty of Rs 3000/- imposed by Govt of Madras. Sri K. again put in an application dt 2.11.60 for consideration the following concessions

Serial No.

P13c/p of his collections

P.47b/ cf. rules

(P.I.C.F)

1) The value of the trees cut & removed illicitly may be reduced to Rs 2000/- as estimated by the DFO.
2) The security deposit of Rs 1075/- may be restored.
3) The assessment of taxes may be waived.

The question of reducing the value of the trees has already been examined and it was not conceded (vide Govt. dt 3.8.60) 74

As per the opinion of the Law Dept (vide Para 65 N.A) the security deposit can be restored. 75

The waiving of assessment does not arise since they have to be paid. 76

For Orders.

Resl 28/6/62

Paras 75 & 76 N/A may be accepted and the applicant informed accordingly. 77

C.W. M/S Speak. 25/6/62

spoken to

2 28/6 The question has been examined 71(a)

Mysore Government Secretariat

Agr File No. 368 FAD 60 of 196

[App. F. III 2

Serial No.

and there appears to be no case for consideration to revise the orders issued in G.O. No. AFD 40 FF 57 dated 3rd August 1960. (Vide Page 47(6) in the C.F. placed below AFD 40 FF 57) Since the penalty of Rs 3000/- which had imposed on him for illicit cutting by the Madras Govt has since also been waived, no further concession appears to be called for. There may not be any objection for restoring the security deposit Rs 1075/- which is legally due to him. (Please see L.D's opinion at Para 65 of N.F.) The question of waiving the cesses doesnot arise as this request to reduce the value of the illicit cut timber is not conceded.

JSR 26/6/62

D.S.)

DEPUTY SECRETARY TO GOVT. NO. 1538-A 27 JUN 1962 AGRICULTURE & FOREST DEPTT.

78 Would it not be better if L.D is also consulted in the matter. M. raise specific issue & consult them.

JSR 30/6/62

30/6

I/c Deputy Secretary to Govt., Agriculture & Forest Department.

79 L.D. has already been consulted. And in accordance with their opinion at Para 65 orders at Para 73(2) are sought.

RSR 3/7/62 3/7

L.D.)

(80) JSR 5/7/62

(81) Law Dept

L.D is clearly consulted and it has recorded its view in para 65

A&F)

JSR 17/8/62

14/8/62

6 - JUL 1962 Registrar-I Law Department

MYSORE GOVT. SECRETARIAT AGRL. & FOREST DEPTT. APPAL SECTION 16 AUG 1962

File No. AFD 368 FAD of 1960.

Mysore Government Secretariat

Serial No.	
82	The security deposit of the applicant was forfeited by the Govt of Madras and subsequently released as per orders dt. 7-1055. As per the opinion of L.D. at Para 65 supra the question of taking fresh deposit would arise only when the order of refund is given effect to. The C.F. in his letter dt. 6/6/61 reports that the order of refunding the forfeited amount has not been given effect to. The C.F. may be asked to ~~adjust the deposit for~~ treat this amount as fresh deposit and the petitioner informed accordingly. For orders.
	x. P G 7 AFD 40 MFD 57.
	1 p. 39 CF.
	C.W. P/S/peak.
	19/8/62
(83)	Please see L.D's opinion at Paras 65 according to which the party is entitled to the refund of the Security deposit of Rs 1075/- In view of this there may not be any objection to treat this as a fresh deposit since the same is now with Govt only (vide C.F. No Page 39). The C.C.F may be informed accordingly. As indicated in Para 77(a), there appears to be no case with regard other points urged by the party. The party may also be endorsed accordingly. D.S.)
	21/8/62

DEPUTY SECRETARY TO GOVT. No. 1958 1 AUG 1962 AGRICULTURE & FOREST DEPTT.

WD-010154—GPB—PZS—8,00,000—1-10-61

Mysore Government Secretariat

[App. F. III 2

A(1) File No. 368 FAD of 1960.

Serial No.

(84) Dft letter to CCF as above pl. & put up

21/8

1956 ~~24/8~~ 22/8/62

P. 41/C.F.

DEPUTY SECRETARY TO GOVT. No. 2052-F 30 AUG 1962 AGRICULTURE & FOREST DEPTT.

Draft letter to CCF is put up for approval.

(86) 27/8/62 28/8 Draft may be approved (P. 41 C.F.)

30/8/62

~~D.S.~~

(87) The dft. does not conform to the US's own note at NF 83 pl.

30/8

C.W. pl. speak. 31/8/62 ~~24/8~~ 31/8/62

(88) Revised draft, as directed is put up for approval.

11/9/62

(89) 11/9/62 Revised Draft at Page 43 may be approved.

DEPUTY SECRETARY TO GOVT. No. 2956 17 SEP 1962 AGRICULTURE & FOREST DEPTT.

15/9/62

~~D.S.~~ 18/9

AGRICULTURE & FOREST SECRETARY 4720 18 SEP 1962 GOVERNMENT OF MYSORE

Note.—Contn. Sheet

Lets. apprs. 20.9

21/9

31/7/62

~~24/9~~ 22/9/62

OCT 1962

23

To

The Secretary,
Department of Agriculture and Forests,
Government of Mysore,
Vidhana Soudha,
Bangalore.

MYSORE GOVERNMENT SECRETARIAT
NO. 11079
22 NOV 1960
FOREST BRANCH

Humble appeal of Sri M.S.Kadambalithaya,
Land Holder, Volesseri, Belloor Post,
Via Kasaragod, Cannanore Dt.

Dt. ~~14~~ 21-11-1960

Sub: Lease - land granted on 1-1-1952 by Madras Govt - term 50 years - Puttur Taluk inS.Kanara Dt - Aletti East - Reserved Forest - 43 acres- illicit fellings of trees in1952-53 - restoration of the lease and payment of money-regarding.

Ref: Government order AFD 40/MFP/57 dt 3-8-1960.

AGRICULTURE & FOREST SECRETARY
No. 28.65
21 NOV 1960
GOVERNMENT OF MYSORE

I thank the Government for the kind orders communicated to me in their AFD 40 MFP 57 dated 3-8-1960.

2. In pursauance of the orders Ref. B4-51-441/57-58 dated 24-8-1960 of the Chief Sonservator of Forests, Bangalore, communicated to me in District Forest Officer's Memo Ref. 6973/60-65 dated 31-8-1960 in which I have been penalised and directed to make the following payments.

(i)	Value of trees illicitly cut.	Rs 3855-00
(ii)	Sales tax on the above.	115-65
(iii)	Security deposit.	1075-00
(iv)	Rent for the current year.	197-00
(v)	Cess on the above.	61-07
(vi)	Arrears of cess for 1952-53.	134-54
	Total	Rs 5438-26

I am now submitting this appeal for reconsideration of the orders issued on the following among other grounds.

3. Item (i) Value of trees Rs.3855-00

Under condition 18 of the Grant order, the grantee shall be responsible for the acts of himself and his employees.

In this case no offence was committed either by me or by my employees. The fellings were done by outsiders with the connivance and active help of the lower officials of the Forest Department and these facts have been fully proved and established in the enquiry held in that behalf and also in a court of law. Such being the case, even supposing I am to pay the value of trees, it will be only on technical grounds as a loyal citizen not disputing the orders issued by the authorities. In that case due consideration will have to be given to the locality where the fellings were done and the other circumstances under which valuation could be fixed.

The 43 acres of land in question is situated in an almost inaccessible interior Malnad Forest village and is not having any transportation facilities. The only market for timber from this area is Mangalore which is at a distance of 85 miles. Timber in this locality fetches very little price here.

The value of trees felled appears to have been assessed on certain very broad and necessarily imaginary measurements and principles based on the girth of the stumps found in the area at the time of investigation and then arrive at the cubical contents. The cut and felled trees were not available for verification. Even now there are no such trees of such proportions in any portion of the locality. In view of what is stated above, it is humbly submitted that the value of trees felled cannot in any case exceed Rs.1500/- to 2000/-. It is earnestly submitted that the valuation as fixed now at Rs 3855/- may kindly be re-

duced suitably;if it is not possible to waive the entire demand of Rs 3855/-.

4. Item (ii) Sales Tax Rs.115-65.

There is no evidence to show that the trees were sold. The records will show that in this case after enquiry one Forestor and a Guard were dismissed from service. The Contractor who was prosecuted in a court of law was discharged for want of evidence. I am subjected to a loss of atleast Rs 14,000/- being the interest for the period 1953 to 1960 on the investment of Rs 40,000/- made by me on the above piece of land brought by me under plantation. So far as I am concerned, the Government is aware that I am only paying the value of trees under the penal provisions of the lease grant and paying it for no fault of mine. It would therefore mean a heavy punishment and I will be unjustly hit hard if sales tax too is levied. To collect sales tax from me is under the circumstances not justifiable. This may kindly be waived.

5. Item (iii) Security deposit Rs 1075-00

I have alreadypaid the security deposit of Rs 1075/- to the Madras Government in 1953 or thereabouts at the time of grant. The lease had also been restored by the Madras Government in their memorandum No.74912/C-IV/55-3 Agrl. dated 3-10-1955 in which no mention of confiscation of security deposit is made. The Government have allowed my appeal and the lease was sanctioned by Madras Government which is the appellate authority. Therefore I request that the order levying afresh of the security deposit again may be reconsidered and cancelled.

6. Items (iv) to (vi) Rent and Cess.

I have already paid the current rent simultaneously when the grant order was made in January 1952, when I took possession of the plot and entered upon it. The lease was cancelled during the year 1952-53. I am not therefore liable to make this payment over again. In fact I have invested large amounts for improving the land and bringing it under cultivation even during the first year of the lease. So much so to levy assessment and cess for the period during which I was not in possession, viz, 1952-53 is neither just ~~and~~ nor equitable.

According to condition 7 of the Grant no rent is leviable for the first 5 years. Neverthless I had paid Rs 237/- as rent even during the first year of tenure as levy was made on administrative grounds.

Therefore I pray that the levy of current rent and cess may, if at all, be enforced only after this appeal petition is disposed of and restoration effected. Therefore the collection of cess may also be deferred.

7. Having invested over Rs 40,000/- on the lease land ~~by~~ of 43 acres I have been suffering without any return whatsoever in respect thereof. This is definitely the biggest venture made to improve agricultural on modern line. Such being the case it is, I submit just and fair that the government should give all possible help in such agricultural venture in accordance with the avowed policy of the Government.

On a kind consideration of the facts mentioned above it is prayed:

(i) That a constructive and compassionate view may kindly be taken and the value of the trees fixed atleast at the outside maximum limit of Rs 2000/- as originally estimated by the Dt.Forest Officer who had personally seen the condition and as recommended by the Chief Conservator of Forests, Bangalore.

(ii) The Security deposit of Rs.1075/- confiscated by the Chief Conservator of Forests, may be restored and taken to the credit of the Mysore Government after ~~xxfxxxxxxxxx~~ necessary adjustment.

(iii) All further assessment made in the order may be waived on compassionate grounds.

8. I also further pray that stay order may be issued by the Government and keep in abeyance the collection of the ~~xx~~ above amounts as directed by the Chief Conservator of Forests Bangalore until the final disposal of this appeal by the Government.

It is further requested that this appeal may be disposed of as early as possible.

Belloor,)
21-11-1960)

Yours faithfully,

21-11-60

Copy submitted to:

1. The Chief Conservator of Forests, Bangalore for favour of information and for staying the collection until the appeal is disposed off.
2. The Conservator of Forests, Coorg Circle, Mercara and
3) The Dt.Forest Officer, S.Kanara, Mangalore for favour of information.

28 7

11098 AFD

OFFICE OF THE MINISTER FOR FOREST & TRANSPORT
No. A-1037
22 NOV 1960

To

The Hon.Minister for
Forest & Transport,
Government of Mysore,
Vidhana Soudha, Bangalore.

DEPUTY SECRETARY TO GOVT.
NO. 1328/F
22 NOV 1960
AGRICULTURE & FOREST DEPTT.

Humble appeal of Sri M.S.Kadambalithaya,
Land Holder, Volesseri, Belloor Post,
Via Kasaragod, Cannanore Dt.

Sir,

Dt. 22-11-1960

Sub: Lease - land granted on 1-1-1952 by Madras Govt. term 50 years - Puttur Taluk in S.Kanara Dt. - Aletti East - Reserved Forest - 43 acres - illicit fellings of trees in 1952-53 - restoration of the lease and payment of money - regarding.

Ref: Government Order AFD 40/MFP/57 dt. 3-8-1960.

I thank the Government for the kind orders communicated to me in their AFD 40 MFP 57 dated 3-8-1960.

2. In pursauence of the orders Ref. B4-51-441/57-58 dated 24-8-1960 of the Chief Conservator of Forests, Bangalore, communicated to me in District Forest Officer's Memo Ref.6973/60-65 dated 31-8-1960 in which I have been penalised and directed to make the following payments.

i)	Value of trees illicitly cut	Rs.3855-00
ii)	Sales tax on the above	115-65
iii)	Security deposit.	1075-00
iv)	Rent for the current year.	197-00
v)	Cess on the above.	61-07
vi)	Arrears of cess for 1952-53.	134-54
	Total Rs.	5438-26

I am now submitting this appeal for reconsideration of the orders issued on the following among other grounds.

3. Item (i) Value of trees Rs.3855-00

Under condition 18 of the Grant order, the grantee shall be responsible for the acts of himself and his employees.

In this case no offence was committed either by me or by my employees. The fellings were done by outsiders with the connivence and active help of the lower officials of the Forest Department and these facts have been fully proved and established in the enquiry held in that behalf and also in a court of law. Such being the case, even supposing I am to pay the value of trees, it will be only on technical grounds as a loyal citizen not disputing the orders issued by the authorities. In that case due consideration will have to be given to the locality where the fellings were do

and the other circumstances under which valuation could be fixed.

The 43 acres of land in question is situated in an almost inaccessible interior Malnad Forest village and is not having any transportation facilities. The only market for timber from this area is Mangalore which is at a distance of 85 miles. Timber in this locality fetches very little price here.

The value of trees felled appears to have been assessed on certain very broad and necessarily imaginary measurements and principles based on the girth of the stumps found in the area at the time of investigation and then arrive at the cubical contents. The cut and felled trees were not available for verification. Even now there are no such trees of such proportions in any portion of the locality. In view of what is stated above, it is humbly submitted that the value of trees felled cannot in any case exceed Rs.1500/- to 2000/-. It is earnestly submitted that the valuation as fixed now at Rs.3855/- may kindly be reduced suitably; if it is not possible to waive the entire demand of Rs.3855/-

4. Item (ii) Sales Tax Rs.115-65.

There is no evidence to show that the trees were sold. The records will show that in this case after enquiry one Forestor and a Guard were dismissed from service. The Contractor who was prosecuted in a court of law was discharged for want of evidence. I am subjected to a loss of atleast Rs.14,000/- being the interest for the period 1953 to 1960 on the investment of Rs.40,000/- made by me on the above piece of land brought by me under plantation. So far as I am concerned, the Government is aware that I am only paying the value of trees under the penal provisions of the lease grant and paying it for no fault of mine. I would therefore mean a heavy punishment and I will be unjustly hit hard if sales tax too is levied. To collect sales tax from me is under the circumstances not justifiable. This may kindly be waived.

5. Item (iii) Security Deposit Rs.1075-00.

I have already paid the security deposit of Rs.1075/- to the Madras Government in 1952 or thereabouts at the time of grant. The lease had also been restored by the Madras Government in their memorandum No.74912/C.IV/55-3 Agrl. dated 3-10-1955 in which no mention of confiscation of security deposit is made. The Government have allowed my appeal and the lease was sanctioned by Madras Government which is the appellate authority. Therefore I request that the order levying afresh of the security deposit even again may be reconsidered and cancelled.

6. Items (iv) to (vi) Rent and Cess.

I have already paid the current rent simultaneously when the grant order was made in January 1952, when I took possession of the plot and entered upon it. The lease was cancelled during the year

1952-53. I am not therefore liable to make this payment over again. In fact I have invested large amounts for improving the land and bringing it under cultivation even during the first year of the lease. So much so to levy assessment and cess for the period during which I was not in possession, viz. 1952-53 is neither just nor equitable.

According to condition 7 of the Grant no rent is leviable for the first 5 years. Neverthless I had paid Rs.237/- as rent even during the first year of tenure as levy was made on administrative grounds.

Therefore I pray that the levy of current rent and cess may, if at all, be enforced only after this appeal petition is disposed of and restoration affected. Therefore the collection of cess may also be deferred.

7. Having invested over Rs.40,000/- on the lease land of 43 acres I have been suffering without any return whatsoever in respect thereof. This is definitely the biggest venture made to improve agriculture on modern line. Such being the case it is, I submit just and fair that the Government should give all possible help in such agricultural venture in accordance with the avowed policy of the Government.

On a kind consideration of the facts mentioned above it is prayed:

i) That a constructive and compassionate view may kindly be taken and the value of the trees fixed atleast at the outside maximum limit of Rs.2000/- as originally estimated by the Dt.Forest Officer who had personally seen the condition and as recommended by the Chief Conservator of Forests, Bangalore.

ii) The Security deposit of Rs.1075/- confiscated by the Chief Conservator of Forests, may be restored and taken to the credit of the Mysore Government after necessary adjustment.

iii) All further assessment made in the order may be waived on compassionate grounds.

8. I also further pray that stay order may be issued by the Government and keep in abeyance the collection of the above amounts as directed by the Chief Conservator of Forests, Bangalore until the final disposal of this appear by the Government.

It is further requested that this appeal may be disposed of as early as possible.

Balloor,
22/11/1960.

Yours faithfully,

M. Krishnaiah
22-11-60

Copy submitted to:

1. The Chief Conservator of Forests, Bangalore for favour of information and for staying the collection until the appeal is disposed of.

2. The Conservator of Forests, Coorg Circle, Mercara and

3. The Dt.Forest Officer, S.Kanara, Mangalore for favour of information.

32

Appendix F. G.—1]

SUBJECT Forests - South Kanara Division - Mette - Reserved Forest - Leased for areca plantation

Diary No. of letter replied to .....

Mysore Government Secretariat.

Top-priority)

the 195 .

Date of issue 30/11/62

Signed by .....

List of enclosures .....

Copied by .....

Examined by .....

Section
File No. } AFD 368
Serial No. FAD 60
alone

No.

To The CCF

Sir

In continuation of G.O. No AFD 40 MFP 57 d 3-8-60 on the subject noted above, I am directed to forward herewith petition d 21-11-60 in original from Sri M.S. Kadambalithaya and to request you to submit to Govt immediately a detailed report on all the points referred to in the petition

W/7
30/11

3
30/11 pls ins to Govt

CHIEF CONSERVATOR'S OFFICE

No. B4-51-441/57 BANGALORE: DATED 21 MARCH 1961.

Encls - Urgently

MYSORE GOVERNMENT SECRETARIAT
NO. 8672
24 MAR
FOREST BRANCH

To

The Secretary to Government,
Agriculture and Forest Department,
Bangalore.

Sir,

Sub: Forests - South Kanara Division - Aletti - Reserve Forest - leased for areca plantation.

Ref: Your letter No. AFD 368 FAD 60 dated 30-11-60 and subsequent reminder dated 16-12-60.

A copy of letter No. A3-35-482/59 dated 5-1-61 with enclosures received from the Conservator of Forests, Coorg Circle, Mercara, furnishing his remarks on all the points referred to in the appeal petition dated 21-11-60 of Sri M.S.Kadambalithya addressed to Government, is submitted for perusal of Government.

For the reasons explained by the District Forest Officer, South Kanara and the Conservator of Forests, Coorg Circle, I agree with their remarks on each of the items referred to in the appeal petition of Sri M.S.Kadambalithya.

The original petition dated 21-11-60 of Sri M.S. Kadambalithya ~~received~~ received with your letter under reference is herewith resubmitted.

Yours faithfully,

CHIEF CONSERVATOR OF FORESTS.

21/3

Copy of letter No. A3-35-482/59 dated 5th January 1961 from the Conservator of Forests, Coorg Circle, Mercara to the Chief Conservator of Forests in Mysore, Bangalore.

Sub: Illicit fellings in Aletty Researved Forests
Loss due to illicit felling of trees.

Ref: Chief Conservator of Forest's No. B4-51-441/57-58 dated 15-12-1960.

The statement of the lessee Shri M.S.Kadambalithaya, that the trees were felled by outsiders with the lower officials of the Department is not true. The trees were felled by the authorised agents of the lessee and the officials who failed in their duty to book the offenders in time were removed from service.

With regards the valuation of the timber illicitly felled the District Forest Officer after careful consideration has reported that the levy of the value of Rs. 2,000/- would be reasonable. As the party has accepted to pay this, this may be accepted.

The security Deposit of Rs. 1075/- ordered to be recovered cannot be waived, as the original deposit has already been forfeited to the Government of Madras as per Rules.

Rs. 115-65 being the sales tax at 3% on the falue of timber is also recoverable as it has to be recovered by sale. If however the recommendaion to recover the timber value at Rs. 2,000/- is accepted thus it will also be reduced to Rs. 60/- only at 3% The arrear for 1952-53 cannot be waived as the department is legally entitled to recover the amount. Where the land has been restored to him it is obligatory that he should pay lease amount for 52-53 which is in arrear. It is not a fresh grant but a mere restoration. The education cess at 0.31 nP is recoverable as per standing orders and this cannot be waived.

In this connection, the copy of the detailed report received from the District Forest Officer, South Kanara in duplicate is enclosed for favour of perusal.

The appeal petition of Sri M.S.Kadambalithaya, received with the above reference is resubmitted herewith as directed.

"C O P Y"

CHIEF CONSERVATOR OF FORESTS.

SVV/

C.No. 6973/60.C5.
riplicate

District Forest Office, South Kanara
P.B.No. 30 Mangalore.1.d/ 9.12.60

ramaran Reddy, M.Sc.,
A.I.F.C.
ct Forest Officer,
Kanara, Mangalore.

To
The Conservator of Forests,
Coorg Circle,
MERCARA.

Sub:- Illicit fellings in Aletty Reserved Forest - Loss due to illicit fellings of trees.

Ref:- G.O.No. AFD 40 - MFP-57. dated 3-8-1960 communicated in Chief Conservator of Forest's Ref. B.4. 51-441 / 57-58 dated 24.8.1960
Coorg Circle, Conservator's Ref. EST. 211-1762/ 59-60 dated 7.10.1960.
This Office reference No. 6973/60. C5. dated 8.11.1960.
Appeal petition of Sri M.S.Kadambalithaya addressed to the Secretary Agriculture and Forest Department with a copy to the Chief Conservator of Forests, Conservator of Forests, Coorg Circle and to this Office.

ith reference to the appeal petition dated 21-11-1960 filed d M.S.Kadambalithaya, I submit my detailed remarks as follows:-

per Government Order AFD - 40 MFP-57. dated 3-8-1960 icated in Chief Conservator of Forests reference No.B.4.51-57-58. dated 24-8-1960 I have issued orders to Sri M.S.Kadamhaya to pay the following amounts in order to restore the and to hand over the areca plot to him. Copy of this order already been submitted to the Conservator of Forests, Coorg le, Mercara., In this Office reference No. 6973/60. C5. dated .1960 which may kindly be perused.

1. Value of trees illicitly cut	3855.00
2. Sales Tax at 3% on the above	115.65
3. Security Deposit for the lease	1075.00
4. Rent for the year	197.00
5. Cess on the above @ 0.31 N.P. per rupee	61.07
6. Arrear cess for 1952-53	134.54
	5438.26

Paragraph 3 of the Appeal :

ation of the lessee thatthe illicit fellings were s with the connivance and active help of the of the Forest Department is not correct. One sed agents of the lessee appointed for the fellings the standing growths, admitted the illicit ng the preliminary enquiry and gave a statement mpound the offence. The case was accordingly Rs 5000/- against him, but he did not pay the ees. The case was therefore sent to the Court, sed denied the Offence and for want of sufficient ase was acquitted in the Court. Therefore for the sses, it should be taken for granted that the autho- the lessee has done the illicit fellings around or which Lessee is also fully responsible.

inst the concerned subordinates who were responsible the offenders has also been taken and both the d the Forester were removed from service.

he valuation of trees illicitly felled, I submit

that the report already submitted in this Office refer No. 5238/57.C5. dated 11-12-1957 may be perused, copy which is enclosed herewith for ready reference. h other remarks to offer in this connection.

Paragraph 4 of the appeal:

Usually this Department is collecting Sales Tax Sale amounts of timber, fuel etc and even in the case posing of tree growth on seigniorage value. On this Lessee is liable to pay Sales Tax on Rs 3,855/- beingth of trees illicitly felled and removed from the Reserve

Paragraph 5 of the appeal:

Since the Security Deposit Rs 1075/- already depos the lessee was forfeited to Government by the Chief Con of Forests, Madras, for the breach of conditions of the or of grant, I am of the opinion that the lessee is required pay fresh security deposit of Rs 1075/- for the due fulfil of the conditions of the order of grant.

Paragraph 6 of the appeal:-

As per the order of grant issued for the lease, is required to pay rent etc on or before 1st of January o year. Accordingly he had paid the rent for the years and 1953. The lease was cancelled in the month of Sep 1953. Hence I am of the opinion that the lessee should the rent and cess etc for the year 1961, in advance, be the end of December 1960. As per condition 7 of the or of grant Lessee is required to pay the rent each year c as follows:

1 to 5 years - Rent free
6 to 10 years - Rupee 1 per acre
11 to 15 years - Rupee 3 per acre
16 to 50 years - Rupee 6 per acre.

In accordance with this calculation the amount of annual rent payable by the Lessee for 50 years was arrived at and fixed as follows:-

1st year - Rs 237/-
Next 49 years - Rs 9653 at Rs 197/- to be paid on o bf 1st of January each year. Hence the rent levied is in ord

Lessee is required to pay the land and edu 0.31 per rupee on the annual rent. He has n for the years 1952 and 1953. The Order reg ion of cess was received in this Office some beginning of 1955 and it was required to coll cess of the previous years ise from 1952-53 on lessees. I have not taken action to recover t till the disposal of his original appeal. The of the opinion that the levy of arrear cess ma Office reference No. 6973/60.C5. dated 31.8.19

Further in continuation of this Office re 6973/60.C5. dated 8-11-1960, I submit that th paid the amounts as ordered. I have instruc Officer, Sullia to collect the arecanuts fro mentally.

True copy/By Order
Copy to the Forest Range Officer, Sullia.

br. 12.12.

3+

Copy of South Kanara Dt.Forest Officer's Ref.No.5238/57.05. dated 11.12. 1957 to the Chief Conservator of Forests, Bangalore through the Conservator of Forests, Coorg Circle, Mercara.

Sub:- Forests - South Kanara Division - Aletti R.F - leased for areca plantation.
Ref:- Chief Conservator of Forest's Ref.B.4. 57 - 441/57-58 dated 25.10.1957.

With reference to the above I beg to state that I inspected the areas leased out to Sri M.S.Kadambalithaya in Aletty Reserved Forest (Poogavanam, at Battangaya) on 5.12.1957. As already reported in my R.C.No.5238/57.05. dated 2.7.1957, he was granted 53 acres for areca cultivation in 1949. Of this he has -- brought under cultivation about 48 acres and the balance of 7 acres will be planted up this year. The tree growth in this 53 acres bit was valued at Rs 51/- per acre and collected from him.

Another area of 43 acres in 3 bits lying in contiguity with the above mentioned 53 acres was given to him in 1952. The tree growth in this 43 acres was put up in auction twice and at both the sales the bid amount was Rs 15/- per acre. Since the bids were low the then Dt.Forest Officer inspected the area and fixed up Rs 35/- per acre as reasonable tree value and an amount of Rs 1505/- was collected from the petitioner as per G.O.Ms. No.6080 Development dated 10.12.1951. In the course of clearing the tree growth by a person to whom the petitioner had given power of attorney, illicitly felled and removed 116 trees. Calculating on the basis of seigniorage value the valuation came to Rs 3854.12.0 or Rs 3855/- The Government of Madras vide Government No. 74912 - C-IV/55-3 Agri dated 3.10.55 ordered the restoration of the area of 43 acres to the lessee on payment of the above seigniorage value and a penalty of Rs 3000/- i,e. Rs 6,855/- in all.

The lessee has levelled up the first plot with bull dozers by spending very large sums. The areca garden is really a very good one and the interest taken by this gentleman requires great appreciation and sympathy. Small portions have started yielding but for the next atleast 5 years, he cannot take any income as all that is got will have to be poured back into the garden to complete the entire area.

Since the timber growth in the area fetched only Rs 15/- an acre when sold and Rs 35/- was fixed later as the proper timber value I should submit that about Rs 2100/- or Rs 2000/- in all i.e about 60 acres over which the illicitly felled tre lies at Rs 35/- an acre would be reasonable though the seignio comes to Rs 3,855/-

Sd.K.A.Muddayya,
District Forest Officer, S.Kanara.

/ True copy/

K Lidbals 13.12.60
Head Clerk.

br. 13.12.

13/12

M. G. S. App. F VI—G. 2]

SUBJECT: Appeal petition of Sri M. S. Kadambali Maya, Land Holder, Forests — S. K. Division — Aletti, Reserve Forest — leased for areca plantation

Diary No. of letter replied to.....

Mysore Government Secretariat

( )

the 195

Date of issue.....195

Signed by.....

May this be—
(i) printed?
(ii) treated as a Standing Order?
(iii) published in the Gazette, English Part?
(iv) translated?
(v) placed at the disposal of the Press?
(vi) published in the Gazette, Kannada Part?

Section
Serial No. } RFD 368 FAD 60
File No.

Proceedings of the Government of Mysore

Read— 1) G.O. No RFD 368 FAD 57 d 3-8-60

2) Appeal petition d 21-11-60 from Sri M. S. Kadambali Maya, Land Holder, Volessari, Bellur Post, Cannanore Dt.

3) Letter No B4-51/441/57 d 21-3-61 from the CCF.

Order thereon.—No.

In GO dated 3-8-60 orders were issued waiving the penalty of Rs 3000/- levied by the Govt staff and collection of the value of illicitly cut trees viz Rs 3855/- which amount has been calculated taking into account the seignorage rate.

The petitioner in his petition dt 22-11-60 states that he has been asked to pay the total amount of Rs 5438-26 NP, the details of which are mentioned in the said petition.

In respect of Rs 3855/- being the value of trees illegally cut, the petitioner prays that the valuation may at least be fixed to a limit of Rs 200/- as originally estimated by the DFO, SK Dt.

Regarding Sales tax levied by the dept, the petitioner prays that Rs 115-65 NP may be waived. As regards security deposit of Rs 1075-00 he prays that it may be cancelled.

Regarding payment of rent and cesses dues to the dept by the party, it is stated by him that he has already paid the current rent and therefore he is not liable to make payments again. As regards the question of cesses, he prays that it may be deferred. Pending disposal of petition in the Main, it is requested that a stay order may be issued early.

Both the DFO. SK and the CF, Pondicherry have furnished

List of Enclosures.

Copied by

Examined by

M. G. S. App. F VI—G. 2]

SUBJECT.....

Diary No. of letter replied to.....

Section

Serial No.

File No.

Mysore Government Secretariat

( )

the 195 .

Proceedings of the Government of Mysore

Date of issue.....195 .

Signed by.....

Read— the appeal petition of Sri M.S. Kadambali Maiya. The CF agrees with their opinion in this behalf.

With regard to valuation of timber felled, the DFO has after careful consideration has reported the levy of value of Rs 2000/- would be reasonable instead of Rs 3855/-

Regarding security deposit of Rs 1075/- the CF, Kanara has stated that it cannot be waived

May this be—

(i) printed?
(ii) treated as a Standing Order?
(iii) published in the Gazette, English Part?
(iv) translated?
(v) placed at the disposal of the Press?
(vi) published in the Gazette, Kannada Part?

Order thereon—No.

As regards Rs 115-65 being the Sales tax at 3%, the CF reports that it has to be recovered by Sale. If however the recommendation to recover the timber value at Rs 2000/- is accepted, then it will be reduced to Rs 60/- only at 3%. It is further reported that the arrears for 1952-53 cannot be waived as the dept is legally entitled to recover the amount. It is not a fresh grant but a mere restoration. The CF, Nilgiris has also stated that the ~~education~~ cess at Re 0-31 NP is recoverable as per standing orders and therefore this cannot be waived.

List of Enclosures.

In the circumstances Govt is pleased to accept the proposal of the CF. As regards the value of illicitly cut trees viz Rs 3885/- it may be stated that this sum is based on the Seigniorage value. Hence Govt considers that there is no case for reducing the value as proposed by the DFO, SK Dt. Moreover it is not

Copied by
Examined by

M. G. S. App. F VI—G. 2]

42

SUBJECT.....

Diary No. of letter replied to.....

Section

Serial No.

Mysore Government Secretariat

File No.

( )
the 195 .

Proceedings of the Government of Mysore

Date of issue.....195 .

Signed by.....

~~Read—~~

proper to review a case which was decided by the Govt of Madras. Besides a concession has already been shown to the party by not enforcing the recovery of penalty.

May this be—
(i) printed?
(ii) treated as a Standing Order?
(iii) published in the Gazette, English Part?
(iv) translated?
(v) placed at the disposal of the Press?
(vi) published in the Gazette, Kannada Part?

Order thereon.—No.

By order &c

[illegible]
for MFD

To the ref
The Reg Munsif [illegible]
Sri M.S. Kadambalithaya,
Land Holder, Volessari, Belloor Post,
via Kasaragod, Cannanore Dt

116

To

The Secretary, MINISTER.
Department of Agriculture and Forests,
Government of Mysore,
Vidhana Soudha,
Bangalore.

Humble appeal of Sri M.S.Kadambalithaya,
Land Holder, Volesseri, Belloor Post,
Via Kasaragod, Cannanore Dt.

Sir, Dt. 14-11-1960

Sub: Lease - land granted on 1-1-1952 by Madras Govt - term 50 years - Puttur Taluk in S.Kanara Dt - Aletti East - Reserved Forest - 43 acres - illicit fellings of trees in 1952-53 - restoration of the lease and payment of money-regarding.

Ref: Government order AFD 40/MFP/57 dt 3-8-1960.

I thank the Government for the kind orders communicated to me in their AFD 40 MFP 57 dated 3-8-1960.

2. In pursuance of the orders Ref. B4-51-441/57-58 dated 24-8-1960 of the Chief Conservator of Forests, Bangalore, communicated to me in District Forest Officer's Memo Ref. 6973/60-65 dated 31-8-1960 in which I have been penalised and directed to make the following payments.

(i)	Value of trees illicitly cut.	Rs	3855-00
(ii)	Sales tax on the above.		115-65
(iii)	Security deposit.		1075-00
(iv)	Rent for the current year.		197-00
(v)	Cess on the above.		61-07
(vi)	Arrears of cess for 1952-53.		134-54
	Total	Rs	5438-26

I am now submitting this appeal for reconsideration of the orders issued on the following among other grounds.

Item (i) Value of trees Rs.3855-00

Under condition 18 of the Grant order, the grantee shall be responsible for the acts of himself and his employees.

In this case no offence was committed either by ~~th~~ me or by my employees. The fellings were done by outsiders with the connivance and active help of the lower officials of the Forest Department and these facts have been fully proved and established in the enquiry held in that behalf and also in a court of law. Such being the case, even supposing I am to pay the value of trees, it will be only on technical grounds as a loyal citizen not disputing the orders issued by the authorities. In that case due consideration will have to be given to the locality where the fellings were done and the other circumstances under which valuation could be fixed.

The 43 acres of land in question is situated in an almost inaccessible interior Malnad Forest village and is not having any transportation facilities. The only market for timber from this area is Mangalore which is at a distance of 85 miles. Timber in this locality fetches very little price here.

The value of trees felled appears to have been assessed on certain very broad and necessarily imaginary measurements and principles based on the girth of the stumps found in the area at the time of investigation and ~~there~~ then arrive at the cubical contents. The cut and felled trees were not available for verification. Even now there are no such trees of ~~[illegible]~~ such proportions in any portion of the locality. In view of what is stated above, it is humbly submitted that the value of trees felled cannot in any case exceed Rs.1500/- to 2000/-. It is earnestly submitted that the valuation as fixed now at Rs 3855/- may kindly be re-

duced suitably;if it is not possible to waive the entire demand of Rs 3855/-.

4. Item (ii) Sales Tax Rs.115-65.

There is no evidence to show that the trees were sold. The records will show that in this case after enquiry one Forestor and a Guard were dismissed from service. The Contractor who was prosecuted in a court of law was discharged for want of evidence. I am subjected to a loss of atleast Rs 14,000/- being the interest for the period 1953 to 1960 on the investment of Rs 40,000/- made by me on the above piece of land brought by the under plantation. So far as I am concerned, the Government is aware that I am only paying the value of trees under the penal provisions of the lease grant and paying it for no fault of mine. It would therefore mean a heavy punishment and I will be unjustly hit hard if sales tax too is levied. To collect sales tax from me is under the circumstances not justifiable. This may kindly be waived.

5. Item (iii) Security deposit Rs 1075-00

I have already paid the security deposit of Rs 1075/- to the Madras Government in 1953 or thereabouts at the time of grant. The lease had also been restored by the Madras Government in their memorandum No.74912/C-IV/55-3 Agrl. dated 3-10-1955 in which no mention of confiscation of security deposit is made. The Government have allowed my appeal and the lease was sanctioned by Madras Government which is the appellate authority. Therefore I request that the order levying afresh of the security deposit ever ~~were~~ again may be reconsidered and cancelled.

6. Items (iv) to (vi) Rent and Cess.

I have already paid the current rent simultaneously when the grant order was made in January 1952, when I took possession of the plot and entered upon it. The lease was cancelled during the year 1952-53. I am not therefore liable to make this payment over again. In fact I have invested large amounts for improving the land and bringing it under cultivation even during the first year of the lease. So much so to levy assessment and cess for the period during which I was not in possession, viz, 1952-53 is neither just nor equitable.

According to condition 7 of the Grant no rent is leviable for the first 5 years. Nevertheless I had paid Rs 237/- as rent even during the first year of tenure as levy was made on administrative grounds.

Therefore I pray that the levy of current rent and cess may, if at all, be enforced only after this appeal petition is disposed of and restoration effected. Therefore the collection of cess may also be deferred.

7. Having invested over Rs 40,000/- on the lease land of 43 acres I have been suffering without any return whatsoever in respect thereof. This is definitely the biggest venture made to improve agriculture on modern line. Such being the case it is, I submit just and fair that the government should give all possible help in such agricultural venture in accordance with the avowed policy of the Government.

On a kind consideration of the facts mentioned above it is prayed:

(i) That a constructive and compassionate view may kindly be taken and the value of the trees fixed atleast at the outside maximum limit of Rs 2000/- as originally estimated by the Dt.Forest Officer who had personally seen the condition and as recommended by the Chief Conservator of Forests, Bangalore.

(ii) The Security deposit of Rs.1075/- confiscated by the Chief Conservator of Forests, may be restored and taken to the credit of the Mysore Government after ~~makkaaaaxxx~~ necessary adjustment.

(iii) All further assessment made in the order may be waived on compassionate grounds.

8. I also further pray that stay order may be issued by the Government and keep in abeyance the collection of the ~~ab~~ above amounts as directed by the Chief Conservator of Forests Bangalore until the final disposal of this appeal by the Government.

It is further requested that this appeal may be disposed of as early as possible.

Belloor,)
14-11-1960)

Yours faithfully,

Copy submitted to:

1. The Chief Conservator of Forests, Bangalore for favour of information and for staying the collection until the appeal is disposed off.
2. The Conservator of Forests, Coorg Circle, Mercara and
3) The Dt.Forest Officer, S.Kanara, Mangalore for favour of information.

Sri K. S. Dharanendraiya. M.A.,
Garipuram Gullahalli
Extension,
Near Ramakrishna Ashram
Hostel
Bangalore. 4

1100

Appendix F. G.—1]

SUBJECT .....

Diary No. of letter replied to .....

Mysore Government Secretariat.

( )

the 195

Date of issue 3 AUG 1964

Signed by .....

List of enclosures .....

Copied by .....

Examined by .....

Section
File No. } AFD 368/60
Serial No.

No.

To

Sri M. S. Kadambalithaya,
Land Holder, Volegari,
Belloor Post,
via Kasaragod, Cannanore Dt

Sir, with refer to your appeal petition d 22-11-63 requesting that the value of trees illicitly cut may be fixed to a limit of Rs 2000/- as estimated by the DFO, SK Dt instead of Rs 8855/- and the sales tax of Rs 115-65 may be waived etc,

I am directed to state that your request cannot be complied with.

copy to the Cef with reference to his letter No B4-51-441-57 & WD 04 Dam-SFB-PZS—8.00.000—22-9-60

14/7

Appendix F. G.—1]

SUBJECT: Forests - S.K Division - Alethi - Reserve Forest - leased for area plantation.

Diary No. of letter replied to .....

Mysore Government Secretariat.

( )

the 195 .

Date of issue: 6 DEC 1961

Signed by .....

List of enclosures .....

Copied by .....

Examined by .....

Section

File No.

Serial No.

No. AFD 368 FAD 60 | Enclosure

To

The C.C.F. 6 DEC 1961

Sir,

Subject

Ref: your letter No Bq-51-441/57 of 21.3.61

2. I am directed to request you to furnish a copy of the order passed by the C.C.F. Madras forfeiting the deposit of the lessee Sri M.S. Kadambalinga

3. An immediate action is required. Please see the letter Commr. C.C.F. Mds letter No 25844/S4-61 dated 2.12.54.

Copied by .....

Examined by .....

Eo

U/s to Govt

Asst

51

No.B4-ST-441/57.

OFFICE OF THE
CHIEF CONSERVATOR OF FORESTS
IN MYSORE, BANGALORE.

DATED: 16 12/1961.

AGRICULTURE & FOREST DEPARTMENT
No. 10 E1
TAPPAL SECTION
Date 18/12/61
M. G. S.

To

The Secretary to Government,
Agriculture and Forest Department,
Bangalore.

Sub:- Forests - South Kanara Division - Aletti Reserved Forest leased for areca plantation.

Ref:- Your letter No.AFD 368 FAD 60 dated 6-12-1961.

....

A copy of the order No.14981/53-D3-II dated 24-4-1954 passed by the Chief Conservator of Forests, Madras, forfeiting the deposit paid by the lessee Shri M.S.Kadambalithaya is submitted herewith as desired.

Yours faithfully,

C.H. Shankarappa 15/12

CHIEF CONSERVATOR OF FORESTS.

MYSORE GOVERNMENT SECRETARIAT
NO. 11559
2 DEC 1961
FOREST BRANCH

52

Ref.14981/53-D3-II. Office of the Chief Conservator of Forests, Madras-5, dated 24-5-1954.

Sri V.V.Subramanian, I.C.S.,
Chief Conservator of Forests.

--

Sub:- Leases - South Kanara Division - Areca plantation granted to Sri M.Sankaranarayana Kadambalithaya in Aletty Reserved Forest - Illicit fellings outside the leased area - lease cancelled - Confiscation of the security deposit.

Ref:- 1. Chief Conservator's Ref.No.14981/53/E2 dt.15-9-1953.
2. From the Dt.Forest Officer, South Kanara No.3665/53-C5 dated 2-3-1954.
3. Endt. of the Conservator, Ootacamund Circle No.1918/53-M dated 13-3-1954.

In the circumstances reported, the Chief Conservator directs that under the clauses 6 and 25 of the order of Grant issued in R.Dis.628/51-C5 dated 1-1-1952 of the District Forest Officer, South Kanara, the security deposit of Rs.1,075/- made by the lessee may be confiscated to Government.

Sd/- V.V.Subramanian,
Chief Conservator of Forests.

To Shri M.Sankaranarayana Kadambalithaya, through the Dt.Forest Officer, South Kanara.
Copy to the Dt.Forest Officer, South Kanara.
Copy to the Conservator, Ootacamund Circle.

/true copy/by order/ Sd/- xx Superintendent.

Copy:
Chief Conservator of Forests.

N.P.

53

Appendix G.—11

SUBJECT: Forests S.K. Division Ahll Reserve Forest leased for areca plantation

Diary No. of letter replied to .....

Mysore Government Secretariat.

( )

the 195 .

Issued JBL

Date of issue 25 JAN 1962

Signed by .....

Section

File No.

Serial No.

No. AFD 368 FAD60 25 JAN 1962

To The C.C.F.

Sir,

Sub: re XY

Refer. your letter No Bz — 51 - 441/57 of 16.-12.61

I am directed to state that as per Madras Govt order No 75167c IV/55. 3 of 3.x 55 (copy enclosed for refer) Flag M the sum of Rs 1075-/- deposited with the Govt as security deposit and forfeited by the order dated 12. 4. 55, was ordered to be refunded to Sri Shankar-narayan. So the question of taking

List of enclosures .....

Copied by .....

Examined by .....

a fresh deposit would arise only if that order has been given effect to.

I am therefore to request you to indicate whether the deposit amount ~~has been~~ was refunded to the Party as per order of 3.x.55.

Y.F

Eo

U/S to Govt

RSR AFD

THE CHIEF CONSERVATOR OF FORESTS
IN MYSORE, BANGALORE.

55 37

No. B4. 51-441/57 Dated 3 January, 1962.

To

The Secretary to Government,
Agriculture & Forest Department,
Bangalore.

24-1-62

Sir,

Sub:- Forests - South Kanara Division - Aletti Reserve Forest leased for Areca plantation.

Reference is invited to correspondence resting with this office letter of even number dated 16-12-1961 in reply to your letter No. AFD 368 FAD 60 dated 6-12-1961.

The Madras Government ordered the restoration of the lease of forest land in Aletti Reserve Forest to Shri M.S. Kadambalithya subject to recovery of Rs.3855/- from him being the value of the trees illicitly cut in the area around the leased plot. In this connection reference is invited to Government Order No. AFD 40 MFP 57 dated 3-8-1960 and also to your letter No. AFD 368 FAD 60 dated 3-8-1961 addressed to Shri Kadambalithaya and copy endorsed to this office.

In reply to the Mangalore South Division Divisional Forest Officer's notice to Shri Kadambalithaya to pay the dues as ordered by Government, it is reported that Shri K. Balakrishna Rao, Advocate on behalf of Shri Kadambalithaya has written to the Divisional Forest Officer stating that a further appeal has been filed before the Minister for Forests and also argued on 13-10-1961 and that the final orders of the Minister on the appeal petition are awaited. This office is not aware of the further appeal filed before the Minister for Forests.

As the restoration of the lease to Shri Kadambalithaya as ordered by Government takes effect only after he pays to Government the value of the trees illicitly cut and as he has not paid the amount due inspite of the notice sent to him, the Divisional Forest Officer, Mangalore South Division, Mangalore has taken action to collect the areca nuts departmentally from the leased out forest area and dispose of the same in public auction. This is for the information of Government.

Yours faithfully,

3/1

for CHIEF CONSERVATOR OF FORESTS.

MYSORE GOVERNMENT SECRETARIAT
NO. 194
JAN
FOREST BRANCH

56

No.B4-61-441/57.

Office of the Chief Conservator of Forests in Mysore, Bangalore.
Dated: June, 1962.

MYSORE GOVERNMENT SECRETARIAT
No. 4205
8 - JUN
FOREST BRANCH

To

The Secretary to the Government of Mysore,
Agriculture and Forest Department,
B A N G A L O R E.

Sir,

MYSORE GOVT. SECRETARIAT
No. 5
7 JUN 1962
AGRI. & FOREST DEPT. (TAPPAL)

Subject:--Forest leases--South Kanara District, Kasargode Range--Aletty East Reserve--Lease for raising areca plantation--Refund of Deposit--Orders.

Reference:--Your letter No.AFD 368-FAD 60, dated 25th January 1962.

.....

The Conservator of Forests, Coorg Circle, Mercara, has reported that the sum of Rs.1075/- deposited by Shri M.S. Kodambalithaya as Security Deposit and subsequently ordered to be forfeited has not been refunded.

Yours faithfully,

CHIEF CONSERVATOR OF FORESTS.

B.K.4/6/3.

Appendix F. G.—1]

SUBJECT: Ft. leases. South Kanara Dist. Kasarkode. Range – Aletty Reserve. – Lease for raising area plantation – Refund of deposit – Orders.

Diary No. of letter replied to .....

Mysore Government Secretariat.

( )

the 195 .

Date of issue.....

Signed by.....

List of enclosures .....

Copied by.....

Examined by .....

Section

File No.

Serial No.

No.

To

The Cif

Sir is sue

Not to

w/r to the Correspondence ending with your letter No. B4-51-4141-57 dt 6/6/h on the Subject noted above I am directed to State that fresh deposit from the lessee need not be insist upon since the deposit which was forfeited by the govt. of Madras

was subsequently released has yet not been returned to the party. The same may be treated as deposit for the proposed lease and the party may be informed accordingly.

Y.f.

US to Col Hatg

27/8/11

Appendix F. G.—1]

SUBJECT: As on P 41/cf

Diary No. of letter replied to .....

Mysore Government Secretariat.

( )

the 195 .

Date of issue: 1-OCT 1962

Signed by .....

List of enclosures .....

Copied by 27/9/62

Examined by .....

Section

File No.

Serial No.

No.

To

The Cif. 1-OCT 1962

Sir,

W/r to the Correspondence ending with your letter No. B4 SI-441-57 dt. 6/6/62 on the Subject noted above I am directed to state that there is no objection to treat the amount ~~to be by the CF~~ ~~Govt.~~ of Rs. 1075/- as deposit for the present

lease. As regards the other points urged by the petitioner there is no Case. The party may be informed accordingly.

J.S.

JSR

US to Cont.

12-19

The request of Shri M.S. Kadambalithaya is that:

(i) the value of trees illicitely cut should be reduced from Rs 3,855/- to Rs. 2,000/-.;

(ii) the sales tax on this amount should not be recovered;

(iii) the security depisit of Rs. 1,075/- which has been forfeited by Govt. should be remitted to him;

(iv) the rent for the year in which the lease was resumed by Govt. should not be recovered;

(v) cess on the above rent should not be recovered;

(vi) arrears of cess for 52-53 should not be recovered.

The Advocate argues that when the case was restored the security deposit is also to be restored.

The Govt. of Madras had recovered from the party for a breach of condition of lease of land measuring 43 acres for 50 years for ArecaNut cultivation, from Shri Kadambalithaya, Rs. 3,855/- (the value of illicitly cut trees) plus Rs. 3,000/- as fine and this Govt. reconsidered the case and it has been ordered that the amount of fine i.e. Rs. 3,000/- should be returned back to the applicant. In view of this, the reduction of the value of illicitly cut trees need not to be considered. As per the Madras rules, the recovery of sales tax on the value of trees either illicitly cut or cut with the permission of the authorities is permitted. This question does not require any re-consideration. The Madras Govt. had ordered to refund the security deposit of Rs.1,075/- under its letter dated 3rd October, 1965 (page 61/cf of Madras file). It is not known why this amount has been recovered by the Mysore Govt. The rent for the current year, the cess thereon and the cess for 52-53 are governed by the fact whether the lease of the land was enjoyed by the applicant during those years or not. If he has not enjoyed the tenancy, the question of

recovery of these three items does not arise. Further examination may be made in consultation with the C.C.F. on the points raised ~~by~~ above. It is for consideration whether Shri K. Balakrishna Rao, Advocate ~~or~~ M.L.C. may be heard before clarification is obtained from the C.C.F. on the points raised above or he may be heard first and the points raised by him also along with the above points may be referred to the C.C.F. for remarks.

12/10/61

63

K. Balakrishna Rao, B.A., B.L.,
ADVOCATE, M. L. C.

Ganapathi Temple Square
MANGALORE-1.

Dated 25th October 1961

To

The Hon'ble Minister for Forests,
Government of Mysore,
Vidhana Soudha,
BANGALORE-1.

S I R,

Sub: Lease - 43 acres of Areca Plantation - Aletty East R.F. Lessee Sri M. S. Kadambalithaya of Volesory - Cancellation of the lease.

HM 28/10

=======:oOo:=======

With regards to the above matter in the appeal filed by my client, Sri M.S.Kadambalithaya, I had argued on 13.10.1961 and orders were reserved. The Divisional Forest Officer, Mangalore, South Division is threatening to take penal action in case the amounts as ordered previously are not paid at once. Hence I request you to pass final orders in the matter early so that penal action may be avoided. On the receipt of orders on his appeal petition my client will be obeying the same at once.

Yours faithfully,

K. Balakrishna Rao
Advocate, M.L.C.

B+c

64

K. Balakrishna Rao, B.A., B.L.,
ADVOCATE, M. L. C.

Ganapathi Temple Square
MANGALORE-1.

Dated 19. 8. 61
Camp: Bangalore

To,
The Hon. Sri H. S. Nadrampur, B.A.B.L.
Minister for Forests,
Bangalore.

Sir,
I wanted to post it personally the enclosed appeal petition. You were not here when I came over here. I have to go back on account of urgent work. Please receive this petition and kindly post it for hearing to 5th or 6th September, when I will come over to Bangalore.

With best regards

Yours faithfully
K. Balakrishna Rao.

65

To

The Honourable Minister for Forests,
Government of Mysore,
Vidhana Soudha,
BANGALORE

MYSORE GOVERNMENT SECRETARIAT
NO 8037
31 AUG 1961
FOREST BRANCH

Humble Appeal of Sri M.S.Kadambalithaya,
Landholder, Volesseri, Belloor Post,
Via Kasaragod, Cannanore District.

S I R,

OFFICE OF THE MINISTER FOR FORESTS
No 1046
22 AUG 1961

Sub: Lease - Land granted on 1. 1.1952 by Madras Government term 50 years - Puttur Taluk in S.Kanara District - Aletti East - Reserved Forest - 43 acres - illicit fellings of trees in 1952-53 - restoration of the lease and payment of money - regarding.

Ref: Government Order AFD 40/MFP/57 dated 3. 8. 1960.

=====:oOo:=======

Secy Forests
the connected records
may be put up and the
case may be posted
5 the 7 next month
Give the party wants the
case to be heard through
his Advocate

H. S. RUDRAPPA,
Minister for Forests.

examine

I thank the Government for the kind orders communicated to me in their AFD 40 MFP 57 dated 3.8.1960.

2. In pursuance of the orders Ref.B4-51-441/57-158 dated 24.8.1960 of the Chief Conservator of Forests, Bangalore, communicated to me in District Forest Officer's Memo Ref.6973/60-65 dated 31.8.1960 in which I have been penalised and directed to make the following payments:-

i) Value of trees illicitly cut	...	Rs. 3,855.00
ii) Sales Tax on the above.	...	Rs. 115.65
iii) Security Deposit. ...	...	Rs. 1,075.00
iv) Rent for the current year.	...	Rs. 197.00
v) Cess on the above. ...	...	Rs. 61.07
vi) Arrears of Cess for 1952-53.	...	Rs. 134.54
TOTAL:	...	Rs. 5,438.26

AGRICULTURE & FOREST DEPARTMENT
No. 30
FINANCIAL SECTION
2098

Sri C.

I am now submitting this appeal for reconsideration of the orders issued on the following among other grounds:

To

The Honourable Minister for Forests,
Government of Mysore,
Vidhana Soudha,
BANGALORE

MYSORE GOVERNMENT SECRETARIAT
NO. 8037
31 AUG 1961
FOREST BRANCH

Humble Appeal of Sri M.S.Kadambalithaya,
Landholder, Volesseri, Belloor Post,
Via Kasaragod, Cannanore District.

S I R,

OFFICE OF THE MINISTER FOR FORESTS
No. 1046
22 AUG 1961

Sub: Lease - Land granted on 1. 1.1952 by Madras Government term 50 years - Puttur Taluk in S.Kanara District - Aletti East - Reserved Forest - 43 acres - illicit fellings of trees in 1952-53 - restoration of the lease and payment of money - regarding.

Ref: Government Order AFD 40/MFP/57 dated 3. 8. 1960.

=====:oOo:=======

Secy Forests
the connected records
may be put up and the
case may be posted
5 the 7 next month
since the party wants the
case to be heard through
his Advocate

H. S. RUDRAPPA,
Minister for Forests.

examine

I thank the Government for the kind orders communicated to me in their AFD 40 MFP 57 dated 3.8.1960.

2. In pursuance of the orders Ref.B4-51-441/57-58 dated 24.8.1960 of the Chief Conservator of Forests, Bangalore, communicated to me in District Forest Officer's Memo Ref.6973/60-65 dated 31.8.1960 in which I have been penalised and directed to make the following payments:-

i)	Value of trees illicitly cut ...	Rs. 3,855.00
ii)	Sales Tax on the above. ...	Rs. 115.65
iii)	Security Deposit.	Rs. 1,075.00
iv)	Rent for the current year. ...	Rs. 197.00
v)	Cess on the above.	Rs. 61.07
vi)	Arrears of Cess for 1952-53. ...	Rs. 134.54
	TOTAL: ...	Rs. 5,438.26

AGRICULTURE & FORESTS DEPARTMENT
No. 70
LEGAL SECTION
30/8

Sri C.

I am now submitting this appeal for reconsideration of the orders issued on the following among other grounds:-

3. ITEM (i) VALUE OF TREES Rs.3,855.00.

Under condition 18 of the Grant Order, the Grantee shall be responsible for the acts of himself and his employees.

In this case no offence was committed either by me or by my employees. The fellings were done by outsiders with the connivence and active help of the lower officials of the Forest Department and these facts have been fully proved and established in the enquiry held in that behalf and also in a Court of Law. Such being the case, even supposing I am to pay the value of trees, it will be only on technical grounds as a loyal citizen not disputing the orders issued by the authorities. In that case due consideration will have to be given to the locality where the fellings were done and the other circumstances under which valuation could be fixed.

The 43 acres of land in question is situated in an almost inaccessible interior Malnad Forest Village and is not having any transportation facilities. The only market for timber from this area is Mangalore which is at a distance of 85 miles. Timber in this locality fetches very little price here.

The value of trees felled appears to have been assessed on certain very broad and necessarily imaginary measurements and principles based on the girth of the stumps found in the area at the time of investigation and then arrive at the cubical contents. The cut and felled trees were not available for verification. Even now there are no such trees of such proportions in any portion of the locality. In view of what is stated above, it is humbly submitted that the value of trees felled cannot in any case exceed Rs.1,500/- to Rs.2,000/-. It is earnestly

submitted that the valuation as fixed now at Rs.3855/- may kindly be reduced suitably; if it is not possible to waive the entire demand of Rs.3855/-.

4. ITEM (ii) SALES TAX Rs.115.65.

There is no evidence to show that the trees were sold. The records will show that in this case after enquiry one Forestor and a Guard were dismissed from service. The Contractor who was prosecuted in a Court of Law was discharged for want of evidence. I am subjected to a loss of at least Rs.14,000/- being the interest for the period 1953 to 1960 on the investment of Rs.40,000/- made by me on the above piece of land brought by me under plantation. So far as I am concerned, the Government is aware that I am only paying the value of trees under the penal provisions of the lease grant and paying for no fault of mine. I would, therefore, mean a heavy punishment and I will be unjustly hit hard if sales tax too is levied. To collect Sales Tax from me is under the circumstances not justifiable. This may kindly be waived.

5. ITEM (iii) SECURITY DEPOSIT Rs.1075.00.

I have already paid the Security Deposit of Rs.1075/- to the Madras Government in 1952 or thereabouts at the time of grant. The lease had also been restored by the Madras Government in their Memorandum No.74912/C.IV/55-3 Agrl. dated 3.10.1955 in which no mention of confiscation of security deposit is made. The Government have allowed my appeal and the lease was sanctioned by Madras Government which is the appellate authority. Therefore, I request that the order levying afresh of the security deposit even again may be reconsidered and cancelled.

6. ITEMS (iv) TO (vi) RENT AND CESS.

I have already paid the current rent simultaneously when the grant was made in January 1952, when I took possession of the plot and entered upon it. The lease was cancelled during the year 1952-53. I am not, therefore, liable to make this payment over again. In fact, I have invested large amounts for improving the land and bringing it under cultivation even during the first year of the lease. So much so, to levy assessment and cess for the period during which I was not in possession, viz., 1952-53 is neither just, nor equitable.

According to condition 7 of the Grant no rent is leviable for the first five years. Nevertheless I had paid Rs.237/- as rent even during the first year of tenure as levy was made on administrative grounds.

Therefore, I pray that the levy of current rent and cess may, if at all, be enforced only after this appeal petition is disposed of and restoration effected. Therefore, the collection of cess may also be deferred.

7. Having invested over Rs.40,000/- on the lease land of 42 acres I have been suffering without any return whatsoever in respect thereof. This is definitely the biggest venture made to improve agriculture on modern line. Such being the case, it is, I, submit just and fair that the Government should give all possible help in such agricultural venture in accordance with the avowed policy of the Government. A petition to the Secretary to the Government in Agriculture and Forest Department has been rejected on 3.8.1961. Hence is this appeal petition for ~~reconsideration~~ reconsideration of the matter. On a kind consideration of the facts mentioned above, it is prayed:-

(i) That a constructive and compassionate view may kindly be taken and the value of the trees fixed at least at the outside maximum limit of Rs.2,000/- as originally estimated by the District Forest Officer who had personally seen the condition and as recommended by the Chief Conservator of Forests, Bangalore.

(ii) The Security Deposit of Rs.1075/- confiscated by the Chief Conservator of Forests, may be restored and taken to the credit of the Mysore Government after necessary adjustment.

(iii) All further assessment made in the order may be waived on compassionate grounds.

8. I also further pray that stay order may be issued by the Government and keep in abeyence the collection of the above amounts as directed by the Chief Conservator of Forests, Bangalore, until the final disposal of this appeal by the Government.

It is further pequested that this appeal may be disposed of as early as possible.

Yours faithfully,

BELLOOR, POST)
16th August ~~JULY~~ 1961)

M. Ekavanakhi

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APPELLANT'S : VAKALAT

In the Court of the HON'BLE MINISTER FOR FORESTS, GOVT OF MYSORE BANGALORE

No. 195

M. S. KADAMBALITHAYA ... APPELLANT

I/We M. S. Kadambalithaya

Landholder, residing in Volesseri, Belloor Post, via Kasaragod, Cannanore District, Kerala State

do hereby appoint and retain Sri K. BALAKRISHNA RAO, B. A., B. L., M. L. C. Advocate, Mangalore appear for me/us in the above matter and to conduct and prosecute (or defend) the same and all proceedings that may be taken in respect of any application for execution of any decree or order passed therein. I/We empower my/our Advocate to appear in all miscellaneous proceedings in the above suit or matter till all decrees or orders are fully satisfied or adjusted and to obtain the return of documents and draw any moneys that might be payable to me/us in the said suit or matter.

In witness whereof, I/We have hereunto set my/our hand this 16th day of ~~July~~ August 1956 1

Accepted
K Balakrishna Rao
Advocate

Date 18.8.1951.

Advocate.

HM 22/8

The address for service of the said Advocate is

K. Balakrishna Rao,
B. A., B. L., M. L. C.
Advocate
Ganapathi Temple Square
Mangalore—1.

Signed before me by the executant this 16th day of ~~July~~ August 1956 1 the contents hereof having been read over to the executant in ..... and admitted to be correct.

B. V. Acharya
Advocate, Mangalore.

M.G. S. App. F VI—G. 2

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SUBJECT.....

Diary No. of letter replied to.....

Section

Serial No.

File No.

Mysore Government Secretariat

( )

the 195 .

AED 268 FAD 60

~~Proceedings~~ of the Government of Mysore

Date of issue..... 195 .

~~Read~~

To

Sri. K. Balakrishna Rao
B.A., B.L., M.L.C
Advocate.
Camp: B'lore

Signed by.....

May this be—
(i) printed ?
(ii) treated as a Standing Order ?
(iii) published in the Gazette, English Part ?
(iv) translated ?
(v) placed at the disposal of the Press
(vi) published in the Gazette, Kannada Part ?

Order thereon.—No.

Sir,

W/r to your letter of 19-8-6, to the Hon'ble M(F) in favour of the petitioner Sri. M.S. Madambalithaya Landholder, for hearing & invite to inform you

that ~~your~~ your case will be heard by the Hon'ble M(f) on 5th Sept. 1961, during office hours in the Chambers of the M(f) I floor, Vidhana Soudha, Bangalore-1

Y/f

U/S A/F

Copy to

1) P.S. to M(f)

2) cc f to make it convenient to attend the discussion

4/9/61

Lisl of Enclosures.

Copied by

Examined by